

1. Please provide information on what you understand by the terms Islamophobia and anti-Muslim hatred; on the intersection between anti-Muslim hatred, racism and xenophobia and on the historical and modern contexts, including geopolitical, socio-and religious factors, of anti-Muslim hatred.

Islamophobia is often described as 'rooted in racism' that 'targets expressions of Muslimness or perceived Muslimness'.¹ In simple terms, it can be defined as the fear or hatred of, or prejudice against, Islam, Islamic beliefs or Muslims in general. While it may extend to violence, more typically it is represented in everyday actions including hateful comments, behaviour, stereotyping, aggression directed against visible identity markers (hijab, beard etc). It also often manifests itself in discriminatory policies and practice as institutional discrimination or 'systemic violence'. The conceptual development of Islamophobia as a category to define anti-Muslim hatred has largely happened in a European and American context. The anti-Muslim sentiment in these societies is inextricably linked to prevailing anti-immigrant xenophobia and prejudice against brown-skinned Arabs and Asians. This adds a definite racial element to the general prejudice against Muslims as a monolith category, on top of more antiquated orientalist tropes about Islam. In the Western context, Islamophobia is clearly rooted in perceptions of Muslims and Islam as unfamiliar outsiders.

However, this general understanding of Islamophobia presents certain complications in the Indian context. Islam is by no means unfamiliar to India, having reached the subcontinent in the 7th century, in the first few decades following its emergence in the Arabian peninsula. As early as the 8th and 9th century, there were substantial Muslim communities in the Indian heartland. Muslim preachers and saints and a syncretic tradition form an inseparable part of India's religious heritage. Indian Muslims themselves, for the most part, are not racially distinct from other Indians, being the descendants of local populations that had converted to Islam many generations ago. Therefore, Islamophobia in the Indian context is not rooted in racism and xenophobia in the same way it is in the global north, but takes its specificity from a layered brahmanical ordering of insiders and outsiders, a political project in which the Muslim religion and its followers are cast as cultural outsiders to hinduism and a hindu India, despite a shared cultural tradition and history

Largely, anti-Muslim prejudice in India is rooted in a myriad of factors including majoritarian Hindutva politics, the debate over the superiority of polytheistic values over monotheistic, the tendency to believe that Muslims have an ulterior motive to proselytize, the troubled heritage of India's partition in 1947 and systematized suspicion against Muslims embedded in the administrative structures of state. In its current iteration, Islamophobia/anti-Muslim hatred in India is perhaps best understood as a political project to marginalize or to cast muslims as outsiders to the social fabric despite a shared

¹ All Party Parliamentary Group on British Muslims, Islamophobia Defined : The Inquiry Into A Working Definition of Islamophobia, p. 11 (Nov. 27, 2018)

<https://static1.squarespace.com/static/599c3d2febbd1a90cffdd8a9/t/5bfd1ea3352f531a6170ceee/1543315109493/Islamophobia+Defined.pdf>

heritage and culture, through the exploitation of cultural differences like dietary traditions, personal laws, among others.

This ongoing otherization project defines politics, culture, economy, religion, and identity by marking distinctions between what is 'Indian' and what is 'Islamic'- signifying arbitrary markers to both, and entrenching it through violence. Such fractures are then deployed to mobilise majoritarian sentiment by positioning everything 'Muslim' as an existential threat to Indian culture and *Indianness*.

2. Discrimination in Law and Practice

Amendments to Muslim Personal Laws² furthering Criminalisation

- a. **Divorce:** In 2019, the Parliament passed the Muslim Women (Protection of Rights in Marriage) Act,³ which criminalizes *Triple Talaq* and makes it a cognizable, non bailable offence, with up to 3 years of imprisonment. This was introduced by Bharatiya Janata Party (BJP) despite opposition from Muslim women activists that it would lead to their further victimization.⁴ The Act, despite constitutional protections of personal laws, criminalizes the methods of divorce, adding incarceration of the husband over and above entrenched patriarchal norms. The law widens the scope of criminalising Muslim men and does not take into account that with the incarceration of the husband, the woman would be left without any social security or financial support (even to access the provisions of law), and face ostracization in general. It is also discriminatory since there exists no similar provisions criminalizing divorce practices, however anti-women they may be, among other religious communities, and thus targets Muslim men alongside larger civil and political rights deprivations.
- b. **Anti-Conversion Laws⁵:** In 1977,⁶ SC upheld the validity of anti-conversion laws of two States, which was subsequently used by various States across India to pass laws banning conversion.⁷ Currently, 9 States in India have passed anti-conversion laws following this judgment.

² Personal laws in India have their roots in religious customs and derive legitimacy from parliamentary legislations. While earlier the courts maintained that personal laws are outside the ambit of constitutional challenge, in recent times the courts have detracted from the said principle, as in the case of *Shayara Bano v. Union of India and Others* AIR 2017 SC 4609, in which instant triple talaq was held to be unconstitutional.

³ The law was passed following the declaration of triple talaq as unconstitutional by a constitution bench of the SC. *Shayara Bano v. Union of India and Others* AIR 2017 SC 4609.

⁴Preksha Malu, *Criminalizing Muslim men under Triple Talaq ordinance is not Justice for Women* (Sabrang, 19 Sept 2018) <https://www.sabrangindia.in/article/criminalizing-muslim-men-under-triple-talaq-ordinance-not-justice-women>

⁵ Article 25 of the Indian Constitution guarantees the right to profess, propagate and practice religion. This right protects voluntary conversion from one religion into another.

⁶ In *Rev. Stainislaus vs State Of Madhya Pradesh & Ors.* 1977 AIR 908, the SC upheld the validity of anti-conversion laws passed by the States of Orissa and Madhya Pradesh.

⁷ Library of Congress, *State Anti-conversion Laws in India* (October 2018) <https://www.loc.gov/law/help/anti-conversion-laws/india.php>.

Similarly, ministers of 5 BJP ruled States⁸ had recently issued public statements about their plan to introduce laws to prevent 'love jihad'. While no legal definition of 'love jihad' exists, it is popularly understood to connote forceful conversion of women from non-Muslim communities by Muslim men, who allegedly coerce these women into marrying them under the pretext of love.⁹

The State of Uttar Pradesh promulgated a Prohibition of Unlawful Conversion of Religion Ordinance, 2020, soon after the Chief Minister announced the need to tackle the problem of 'love jihad'.¹⁰ The Ordinance, which does not use the phrase 'love jihad' but which seeks to give it a religion-neutral tenor, makes conversion a non-bailable offence, with 5 years imprisonment and fine.¹¹ The Ordinance reeks of mala fide, and is also unconstitutional as it declares conversion for the purpose of marriage to be illegal.¹² The ordinance deploys vague terminology such as "allurement", "easy money", "misrepresentation" as grounds to attack individuals who convert. It shifts the burden of proof on the individual who has 'caused' the conversion or 'facilitated' it. Moreover, it declares that conversion done for the purpose of marriage, will be declared null and void by the Court.¹³

Discrimination Compounded by Judicial Abrogation

- a. **Citizenship (Amendment) Act (CAA), 2019:** CAA, 2019 has been criticised as discriminatory,¹⁴ and was immediately challenged in the SC,¹⁵ with over 200 petitions filed till date contesting its constitutional validity. But the SC has refused to allow for an interim stay, and hearings have repeatedly been delayed.¹⁶ The

⁸ 'Love Jihad' Laws: What Are the Five BJP-Ruled States Planning?, The Quint (19 Nov, 2020) <https://www.thequint.com/news/india/love-jihad-laws-what-are-the-5-bjp-states-up-mp-karnataka-haryana-assam-planning#read-more>.

⁹ Right wing groups in India have used the ban on conversion as a legitimate cover for harassing Muslims. This legitimacy is derived from laws that ban religious conversion, and have come to be used as a tool to criminalise religious minorities. See *USCIRF 2013 Annual Report* (2013) <https://perma.cc/2QJX-KLEB>.

¹⁰ Omar Rashid, *Yogi Adityanath vows to put in place tough law against 'love jihad'*, The Hindu (31 Oct, 2020). <https://www.thehindu.com/news/national/other-states/yogi-adityanath-vows-tough-law-against-love-jihad/article32992138.ece>

¹¹ Prashant Srivastava, *Draft UP law on 'love jihad' proposes 5-yr jail, marriage annulment for 'forced conversion'*, The Print (22 Nov, 2020) <https://theprint.in/judiciary/draft-up-law-on-love-jihad-proposes-5-yr-jail-marriage-annulment-for-forced-conversion/549637/>.

¹² The Allahabad High Court, in *Salamat Ansari & Ors. v. State of U.P. and Ors.* CrI. Mis. Writ Petition No- 11367 of 2020, held that the previous judgments in which marriages after conversion were held to be void, are bad in law.

¹³ In India, inter faith marriages can only take place via Special Marriages Act, 1954. However, in practice, due to the rise in Hindutva outfits in the country, in the recent past, Hindu women have been forced to invoke fabricated rape and elopement charges against Muslim men, which has made it difficult to marry, and in turn, has forced one party to convert as means of protection of one's life.

¹⁴ OHCHR, *UN experts urge India to release protest leaders* (26 Jun, 2020)

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26002&LangID=E>

¹⁵ Akanksha Jain, *Four New Petitions Against CAA In SC, Say It Privileges Specified Religious Persecution* (Live Law, 17 Dec 2019) <https://www.livelaw.in/top-stories/four-new-petitions-against-kaa-in-sc-say-it-privileges-specified-religious-persecution-read-petitions-150903>

¹⁶ *Supreme Court refuses to stay CAA yet again*, Economic Times (21 May, 2020)

CAA coupled with the proposed National Register of Citizens (NRC) is considered as an exclusionary exercise,¹⁷ for Indian Muslims.

Alongside CAA, the NRC is a cross country administrative exercise that seeks to define who belongs to India, but stands the risk of excluding minorities - especially Muslims, as its predecessor exercise in Assam would show.¹⁸ The NRC sought to be prepared from the register of “usual residents” (or the National Population Register, NPR) places reliance upon certain documentation that not all members of the society may have access to, and excessive discretion upon officials to do away with scrutiny in cases of subjective satisfaction.¹⁹ It allows any private person to raise complaints over an individual’s inclusion. The SC monitored Assam NRC has already shown how the imagined fears of the state, of a “demographic change” attributable to “islamists” has resulted in large-scale exclusion of Muslims, perceived as illegal migrants.²⁰ Those once labelled as a “foreigner” have the sole burden of proving otherwise, or may stand to be detained and deported²¹.

Adjudicatory mechanisms (foreigner tribunals and courts) have refused to intervene citing “national security” while their members have been rewarded for zealously excluding more Muslims.²² On several occasions, international bodies have raised concerns of a “genocidal exercise” underway.²³

- b. **Discriminatory Use of Anti-Terror Laws:** The Unlawful Activities (Prevention) Act (UAPA), which is India’s primary anti-terror law, has been frequently invoked against minorities and other marginalized communities.²⁴ Recently, it was used to delegitimize and criminalize anti-CAA, NRC protesters. Statistics show that UAPA

<https://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-refuses-to-stay-caa-yet-again/articleshow/75855684.cms>

¹⁷ Gautam Bhatia, “A Bill that undercuts key constitutional values”, The Hindu (7 Oct, 2019):

<https://www.thehindu.com/opinion/lead/a-bill-that-undercuts-key-constitutional-values/article29611770.ece#:~:text=As%20its%20name%20suggests%2C%20it,%2C%20Bangladesh%20and%20Pakistan>

¹⁸ Assam NRC: What Next for 1.9 million Stateless Indians, BBC (31 Aug, 2019),

<https://www.bbc.com/news/world-asia-india-49520593>.

¹⁹ Special Procedures Communication, IND 11/2019 (27 May 2019)

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24614>

²⁰ Saif Khalid, ‘Harassed, discriminated’: Story of Assam’s Bengali origin people’, Al Jazeera (23 Jun, 2018),

<https://www.aljazeera.com/features/2018/6/23/harassed-discriminated-story-of-assams-bengali-origin-people>.

²¹ Several cases have seen spot-enquiries, arrests and even deportations.

²² Arunabh Saikia, ‘The highest wicket-taker’: Assam’s tribunals are competing to declare people foreigners,

Scroll.in (June 19, 2019), <https://scroll.in/article/927025/the-highest-wicket-taker-assams-tribunals-are-competing-to-declare-people-foreigners>.

²³ Fate of Nearly 2 million in Assam, India Examined in New USCIRF Report (Nov. 19,

2019), <https://www.uscifr.gov/news-room/releases-statements/fate-nearly-2-million-assam-india-examined-new-uscifr-report>;

Genocide Watch for Assam, India renewed (Issued July 17, 2018, renewed Jan 17, 2019),

<https://www.genocidewatch.com/single-post/2019/08/18/genocide-watch-for-assam-india-renewed>.

²⁴ SP Communications, IND 7/2020 (6 May, 2020)

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25219>

cases have risen exponentially under BJP rule, although most end either in acquittal or discharge, over inconclusive evidence at trial.²⁵

While the Union Home Minister in August 2019 claimed in his speech in the parliament that “terror has no religion”²⁶, the National Investigation Agency, (India’s counter terrorist task force), which functions directly under his orders, in its latest move, conducted raids in the households of six alleged terrorists in the state of West Bengal and seized copies of Quran and other religious texts claiming that it is “Jihadi” literature²⁷. It also indiscriminately raided human rights offices in Jammu & Kashmir and Delhi, seizing laptops and resources of activists thus incapacitating them.

- c. **Arrests and Denial of Bail to HRDs:** Following the North East Delhi pogrom in 2020, several Muslim activists who were initially booked for rioting, were subsequently booked under UAPA.²⁸ While many of them have been granted bail in other offences, they continue to remain in prison owing to stringent provision for bail under UAPA. Courts have relied on controvertible²⁹ electronic³⁰ and oral evidence³¹ to deny bail to the accused. These include students and activists Gulfisha Fatima, Meeran Haidar, Asif Iqbal and Sharjeel Imam; activists Shifa Ur Rehman, Khalid Saifi, Ishrat Jahan and Umar Khalid, and former member of Legislative Assembly Tahir Hussain. Some Muslim residents of North East Delhi have also been chargesheeted by Delhi Police. Prosecution in the same case is

²⁵ According to the statistics of the National Crime Records Bureau (NCRB), between 2014 and 2016, over 75% of UAPA cases under the UAPA ended in either acquittal or discharge. See, Aakaar Patel, *UAPA has become a tool of repression but is unlikely to be effective*, National Herald (4 Aug, 2019)

<https://www.nationalheraldindia.com/opinion/uapa-has-become-a-tool-of-repression-but-is-unlikely-to-be-effective>.

In 2018, a total of 1,182 new cases were brought under UAPA, a step up from 2017’s 901 cases. On top of that, cases pending from previous years kept consistently growing every year since 2014 and reached almost 4,000 in 2018, Katharina Buchholz, *Number of Active UAPA Cases on the Rise*, Statista (16 Sep 2020)

<https://www.statista.com/chart/22931/number-of-active-cases-uapa-india/>. The year 2019 witnessed the biggest jump in cases filed under the UAPA. As many as 1,226 people have been arrested under UAPA, a 33% increase from 2016. In 2019 itself, as many as 11% of cases were closed by the police for want of evidence.

²⁶ Sunil Prabhu, *Anti-Terror Bill To Become Law. Government Says No Rights Will Be Violated*, NDTV (2 Aug, 2019) <https://www.ndtv.com/india-news/anti-terror-uapa-bill-seeking-to-designate-individuals-as-terrorists-clears-parliament-2079297>

²⁷ Masihuzzama Ansari, *West Bengal: NIA Seizes The Holy Quran, Religious Books During Raids, Calls Them ‘Jihadi literature’*, India Tomorrow (24 Nov, 2020)

<https://indiatomorrow.net/2020/11/24/west-bengal-nia-seizes-the-holy-quran-religious-books-during-raids-calls-them-jihadi-literature/>

²⁸ FIR No. 59/2020 [Crime Branch], which initially contained offences pertaining to rioting and conspiracy, was subsequently modified to include UAPA offences and offences under

[124A/302/307/353/186/212/395/427/435/436/452/ 454/109/114/147/148/149/153A/34 IPC & 25/27 Arms Act.](#)

²⁹ Polis Project, *Manufacturing Evidence: How the Police is framing and arresting constitutional rights defenders in India* (13 Aug, 2020). <https://thepolisproject.com/wp-content/uploads/2020/08/Manufacturing-Evidence-.pdf>

³⁰ Sruthisagar Yamunan, *Beyond WhatsApp transcripts, what evidence does Delhi Police have in murder cases of nine Muslims?*, Scroll.in (9 Jul, 2020). <https://scroll.in/article/966827/beyond-whatsapp-transcripts-what-evidence-does-delhi-police-have-in-murder-cases-of-nine-muslims>

³¹ Somya Lakhani and Jignasa Sinha, *Delhi riots: In statements of 38 ‘protected witnesses’, mirchi powder, WhatsApp and acid bottles*, Indian Express (23 Sep, 2020)

<https://indianexpress.com/article/cities/delhi/in-statements-of-38-protected-witnesses-mirchi-powder-whatsapp-and-acid-bottles-6606878/>

also pending against student and activist Safoora Zargar,³² and Faizan Khan,³³ employee at a telecom store.

In October 2020, Atik Ur Rahman, student, Masud, PhD student, activist, Alam, cab driver and Siddique Kapan, journalist were arrested by UP police and booked under UAPA, amongst other offences. The four of them were on their way to Hathras to meet the family of a deceased gang-rape victim.³⁴

- d. **Verdict on Demolition of Babri Mosque:** On 30 September 2020, a Special CBI Court acquitted the 32 persons, including top BJP leaders who were accused of leading the destruction of the Babri Mosque 28 years ago. The court acquitted senior BJP ministers L.K. Advani, M.M. Joshi, Kalyan Singh and Uma Bharati on the grounds of inconclusive evidence. The Court ignored the communal speeches that instigated mobs and the findings of a previously established COI, instead holding “unknown miscreants” possibly engaged with “Pakistani agents” responsible.³⁵ This verdict came a year after the Supreme Court (SC), through a civil case, awarded Hindus control of the land, where Babri Mosque once stood, to build a Hindu temple.

3. Social attitude, Hate speech, Attacks and Violence Against Muslims

- a. **Attack on Minority Institutions:** The Indian Constitution guarantees minorities the right to not only establish their education institutions but also administer them in a manner best suited to community interests,³⁶ allowing a fair degree of autonomy.³⁷

Despite constituting the largest minority (14.2%),³⁸ Indian Muslims lag in education in comparison with other religious minorities and other marginalized groups on all

³² Pritam Pal Singh, *Delhi riots: Safoora Zargar gets bail after police doesn't object to humanitarian grounds*, The Indian Express, <https://indianexpress.com/article/cities/delhi/safoora-zargar-bail-delhi-riots-high-court-6472369/>

³³ Vakasha Sachdev, *No Material to Show UAPA Offence: Delhi HC Grants Bail to SIM Seller Faizan Khan in Delhi Riots Conspiracy Case*, The Quint (23 Oct, 2020) <https://www.thequint.com/news/india/delhi-high-court-grants-bail-faizan-khan-delhi-riots-accused-uapa-no-embargo-43d5>

³⁴ The incident, involving a Dalit woman who was alleged to have been raped by upper caste men from her village, and was already in spotlight, gathered further media attention after the UP Police burned the body of the victim without informing the relatives of the deceased, in complete dereliction of their duty, and violation of rights of not only the victim, but also the family. Following this incident, several journalists visited Hathras.

³⁵ *All accused in Babri case acquitted after CBI fails to produce evidence*, Times of India (1 Oct, 2020), <https://timesofindia.indiatimes.com/india/all-accused-in-babri-case-acquitted-after-cbi-fails-to-produce-evidence/articleshow/78416381.cms>.

³⁶ *St. Stephen's College and Ors. vs. The University of Delhi and Ors.*, AIR 1992 SC 1630.

³⁷ *Ibid.* This includes matters such as appointments, admissions, governing structures, fees as well as any benefits or concessions—such as reservation, that may be made for members of the particular religious or linguistic minority. *TMA Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481. See also *P.A. Inamdar v. State of Maharashtra*, (2005) 6 SCC 537.

³⁸ See Ministry of Minority Affairs, *Annexure to the Report of the National Commission for Religious and Linguistic Minorities*, Vol II. <http://www.minorityaffairs.gov.in/sites/default/files/volume-2.pdf>

indicators of human development, such as living standards, financial stability, political existence, and literacy rates.^{39,40}

Two of the most prominent institutions; Jamia Millia Islamia (JMI) and Aligarh Muslim University (AMU) had been granted minority status by National Commission for Minority Educational Institutions (NCMEI). However, over the years, successive governments have attempted to strip these institutions off their minority character.⁴¹ In January 2016, the BJP government submitted before the SC, and subsequently the concerned Ministry stated in public that it did not recognise JMI as a minority institution.⁴² Both AMU and JMI also became epicenters of Anti-CAA protests, leading to several police violations and ill treatment of students.

Between December 2019 and March 2020, police and armed forces, on the pretext of quelling anti-CAA protests, entered inside AMU⁴³ and JMI⁴⁴, threw tear gas shells inside hostels and libraries thereby, suffocating students. Police forces used communal slurs and verbal abuses attacking the Muslim identity of the students, and referred to them as 'terrorists'. Those visibly bearing such identity markers, particularly Kashmiris, were targeted. The Imam (leader) of the campus mosque and security guard of JMI were also attacked. In AMU, armed forces attacked the ambulance drivers who were taking injured students to the hospital, and detained the students despite their injuries. At least three Muslim students were tortured in

³⁹ Report from the National Statistical Office revealed that Muslims are on various yardsticks of academic marginalization as bad or even worse than SCs and STs. See Atul Thakur, *Literacy rate for Muslims worse than SC/STs*, Times of India (13 Aug, 2020) <https://timesofindia.indiatimes.com/india/literacy-rate-for-muslims-worse-than-sc/sts/articleshow/77514868.cms>.

⁴⁰ Educational Development of Muslim Monority: With Special Reference to Muslim Concentrated States of India (<http://dx.doi.org/10.3126/jer.v4i1.10729> Journal of Education and Research)

⁴¹ Some State functionaries, though, had also expressed their apprehension that any removal of such minority "status" could allow majoritarian forces to take control of these institutions, negating the constitutionally protected right. See, statement of former HRD Minister, Arjun Singh, <https://timesofindia.indiatimes.com/City/Delhi/HRD-opposed-minority-tag-for-Jamia/articleshow/50597530.cms>. When amendment to Aligarh Muslim University (AMU) Act was challenged before the the SC on the grounds of constitutionality, the Court held that since the University was incorporated with the assistance of the government by an Act of Parliament, it had lost its minority character. Thus, AMU could not claim the right to autonomy in matters of administration. This was despite the fact that the University was in fact set up by the Muslim community and the Statute merely wanted to reinforce their fundamental rights. In fact, several linguistic minority established Universities across India have also been incorporated through Acts of Parliament, but have not been met with similar assaults over their character. While the judgment acknowledged that AMU was established by majority contributions made by Muslims, a determining factor of minority status, the court held that no matter what the background or cause, the university still came into being by an Act of Parliament. *Azeez Basha v Union of India* AIR 1968 SC 662.

⁴² *HRD opposed minority tag for Jamia*, Times of India (16 Jan, 2016). <https://timesofindia.indiatimes.com/City/Delhi/HRD-opposed-minority-tag-for-Jamia/articleshow/50597530.cms>; *AMU, Jamia are not minority institutions: MoS HRD Ram Shankar Katheria*, Zee News (19 Jan, 2016) https://zeenews.india.com/news/india/amu-jamia-are-not-minority-institutions-mos-hrd-ram-shankar-katheria_1846923.html

⁴³ *Anti-CAA protests at AMU: Actions of UP Police motivated by desire to 'show students their place', says HRLN fact-finding report*, Firstpost (18 Dec, 2019) <https://www.firstpost.com/india/anti-caa-protests-at-amu-actions-of-up-police-motivated-by-desire-to-show-students-their-place-says-hrln-fact-finding-report-7798071.html>

⁴⁴ People's Union for Democratic Rights, *Bloody Sunday: Brutal Attack on Jamia Students* (18 May, 2020) <https://puodr.org/index.php/bloody-sunday-brutal-attack-jamia-students>

custody: stripped, beaten, deprived of food, water and access to medical aid, despite heavy bleeding and fractures, and debased over religious criteria.⁴⁵ The National Human Rights Commission (NHRC) however, gave a clean chit to both Delhi Police and UP Police for its actions.⁴⁶ In February, women students at JMI were sexually assaulted by the police during an anti-CAA protest.⁴⁷ These violent attacks clearly fall within the framework of CIDT and serves as a reinforcement of executive intention to dismantle Muslim minority education in India.

- b. **Killings of Anti-CAA, NRC Protesters:** Excessive police force against anti-CAA, NRC protesters has injured and killed several Muslims across the country, with the highest known numbers in BJP ruled state of UP with 23 killings of Muslims,⁴⁸ and the second highest in BJP ruled Karnataka with 2 killings. This was accompanied by restrictions on assembly and movement, as well as suspension of internet services in cities considered likely to see protests.
- c. **Delhi Pogrom 2020:** Amidst a communally charged atmosphere,⁴⁹ on 23 February 2020, BJP leader Kapil Mishra threatened to use force to remove the CAA protesters from one of the sit-in protest sites. Following this, violence broke out in several parts of North-East Delhi targeting Muslim households and businesses. Delhi Minorities Commission, a State commissioned body described the violence as an anti-Muslim pogrom,⁵⁰ primarily owing to the pattern of violence and the targeted nature of attack on Muslims⁵¹ and their property.⁵²
- d. **Gender Based Violence:** Through the protests in Delhi against CAA, Muslim women took a lead role in collectivizing and organizing protests all over the country. The violence and the attack they faced from the State forces for protesting was also unprecedented. On 15 December 2019, women students of JMI were indiscriminately dragged and beaten by male police officials. On 10 February 2020,

⁴⁵ *Undeterred, AMUSU releases Ground Report detailing police brutality on students*, Sabrangindia (24 Dec, 2019) <https://www.sabrangindia.in/article/undeterred-amusu-releases-ground-report-detailing-police-brutality-students>

⁴⁶ *NHRC gave clean chit to none in Jamia violence: HC*, The Hindu (22 Aug, 2020) <https://www.thehindu.com/news/cities/Delhi/nhrc-gave-clean-chit-to-none-in-jamia-violence-hc/article32417348.ece>

⁴⁷ Asmita Nandy, *Cops 'Stomped on' Women's Private Parts at Jamia Protest: Report*, The Quint (12 Aug, 2020) <https://www.thequint.com/news/india/jamia-anti-caa-protesters-sexually-assaulted-by-delhi-police-report>

⁴⁸ International Commission of Jurists, "Briefing Paper on the Use of Force by the Uttar Pradesh Police to Quell Anti-Citizenship Amendment Protests", 15 January 2020: <https://www.icj.org/wp-content/uploads/2020/01/India-Police-Excessive-Force-UP-Briefing-Paper-2020-ENG.pdf>

⁴⁹ Following the anti-CAA protests, which were met by a brutal pushback from State agencies in the form of curbs on civil liberties, BJP's campaign during Delhi elections further sought to polarise communities on communal lines and targeted Muslim protesters. <https://www.ndtv.com/india-news/delhi-assembly-elections-2020-amit-shah-tells-voters-push-button-with-such-anger-that-shaheen-bagh-f-2170061>

⁵⁰ Javed M Ansari, *Why This Report Says The Delhi Riots Were A Pogrom*, Article 14 (18 Jul, 2020) <https://www.article-14.com/post/why-this-report-says-the-delhi-riots-were-a-pogrom>

⁵¹ Aiman Khan and Arpita Jaya, *Burkhas, All 'Markers of Muslimness' Targeted, Report Details Women's Plight in Delhi Riots*, The Wire (19 Jul, 2020) <https://thewire.in/rights/delhi-riots-delhi-minorities-commission-report>

⁵² *2,000 outsiders brought in for Delhi riots, says minorities panel*, The Federal (4 March, 2020) <https://thefederal.com/news/delhi-riots-planned-1500-to-2000-outsiders-roped-in-minorities-agency/>

women students were attacked based on their religious identity, and their hijabs were pulled off. Several women students were sexually assaulted and were beaten over their genitals.

During the pogrom that was unleashed in North-East Delhi in February 2020, Muslim women were verbally, physically and sexually abused by the Hindutva mobs. Similar cases of attacks on Muslim women based on their religious identity were carried out.

- e. **Weaponization of ‘Public Health’ in the context of Covid-19:** The BJP’s IT cell⁵³ and allied right-wing media have concertedly spread fake news, alleging bias against India and Hindus, and manufacturing anti-Muslim hatred, to polarize along communal lines. The alliance also includes private media houses which have joined hands with the government to further their agenda. The Union Home Minister has publicly admitted to the party’s widespread efforts at dissemination of news - real or fake - and its instrumentality in forming governments.⁵⁴ One private media channel sought to school its viewers over the kinds of “jihad” Muslims perpetrate; another directly attributed the rise in covid cases to Muslims, specifically those who had attended Tablighi Jamaat’s congregation in March 2020.⁵⁵ In *Zee News*⁵⁶, the Editor-in-Chief in early March, 2020 schooled the viewers about various kinds of “jihad” using a chart, and demonized Muslims by explaining what “tools” and “weapons” are used “to wage a religious war.”⁵⁷ Earlier this year, the IT cell⁵⁸ also spread misinformation about the anti-CAA protests distorting speeches, portraying them as aggressors and anti-nationals inspired by financial reasons or acting at the instigation of outside elements - effectively

⁵³ *BJP IT Cell Now ‘Frankenstein’s Monster’, Says Man Who Founded It*, The Quint (23 Jun, 2018)

<https://www.thequint.com/news/politics/bjp-it-cell-now-frankensteins-monster-says-man-who-founded-it>

⁵⁴ While addressing social media volunteers in Rajasthan in 2018, Amit Shah stated that, Real or fake, we can make any message go viral... It is through social media that we have to form governments at the state and national levels. Keep making messages go viral. We have already made a WhatsApp group with 32 lakh people in Uttar Pradesh; every morning they are sent a message at 8 a.m. See *Amit Shah’s poll plans: Spread fire, make even fake messages go viral*, National Herald (2 Oct, 2018) <https://www.nationalheraldindia.com/india/bjp-president-amit-shah-poll-plans-tells-cyber-warriors-to-spread-fire-make-even-fake-messages-go-viral>

⁵⁵ Similarly, the Editor-in-Chief of *Republic Media Network* ran a hate campaign against Muslims during the Covid-19 pandemic, alleging that India’s rising coronavirus cases are because of Muslims, and specifically members of Tablighi Jamaat.

⁵⁶ <https://www.youtube.com/watch?v=u0O42sigeJw>

⁵⁷ In an interview given in *Newslaundry*, a former *OpIndia* employee, who resigned because he felt the news portal was spreading hatred against Muslims, said, “If the accused in an incident belongs to the Muslim community, then you have to mention his name in the heading. The news is to be published in such a way that if the reader is a Hindu, then he starts developing a hatred for Muslims.”

⁵⁸ Pooja Chaudhuri, *Amit Malviya: How the ringmaster of BJP’s propaganda machinery weaponises misinformation*, Alt News (10 Feb, 2020) <https://www.altnews.in/amit-malviya-how-ringmaster-of-bjps-propaganda-machinery-weaponises-misinformation/>

carrying out media trials even with UAPA cases pending against them.⁵⁹ The nexus of the ruling party's IT cell and its allies in the mainstream media are lately fueling a political propaganda⁶⁰ by invoking the phrase "love jihad."⁶¹

Immediately following an Islamic congregation in mid-March⁶², 2020, top BJP leaders and politicians labeled the congregation as "terrorist", "talibani" and an act of "Islamic insurrection".⁶³ This was followed by wide circulation of fake videos traceable to the party's IT Cell,⁶⁴ portraying Muslims licking utensils, sneezing/spitting on food items for sale, and physically assaulting medical personnel, to show a deliberate attempt to infect others with Covid-19.⁶⁵ Hindutva outfits called for them to be "shot dead" and BJP ministers enforced a social and economic boycott of the community,⁶⁶ and a refusal to extend covid treatment. Despite no governmental lockdown or advisory on physical distancing at the time of the gathering, the attendees were detained and charged with grave offences,⁶⁷ and foreign visitors barred *en masse* from entering India.⁶⁸ Post the increased islamophobic attacks, the WHO, USCIRF and the OIC issued condemnations against this act of vilifying the entire community.⁶⁹

- f. **Hate Crimes and Attacks on Places of Worship:** Between 1 January 2020 and 28 November 2020, there have been 158 incidents of hate crimes reported against Muslims in India. According to Documentation of the Oppressed (DOTO), a

⁵⁹ Nilanjana Bhattacharya, *Media Trial, State and the Criminalizing of individuals in Democratic India*, Countercurrents.org (11 Mar, 2020) <https://countercurrents.org/2020/03/media-trial-state-and-the-criminalizing-of-individuals-in-democratic-india/>

⁶⁰ Himanshi Dhawan & Anam Ajmal, *How the myth of love jihad is going viral*, Times of India (8 Nov, 2020) <https://timesofindia.indiatimes.com/home/sunday-times/how-the-myth-of-love-jihad-is-going-viral/articleshow/79111670.cms>

⁶¹ Billy Perrigo, *Why India's Most Populous State Just Passed a Law Inspired by an Anti-Muslim Conspiracy Theory*, Time (25 Nov, 2020) <https://time.com/5915579/love-jihad-uttar-pradesh/>

⁶² *Foreign attendees of Tablighi event made 'scapegoats'*, says Bombay HC, Mint (22 Aug, 2020) <https://www.livemint.com/news/india/foreign-attendees-of-tablighi-event-made-scapegoats-says-bombay-hc-11598103079044.html>

⁶³ Ritika Jain, *Covid-19: How fake news and Modi government messaging fuelled India's latest spiral of Islamophobia*, Scroll.in (21 April, 2020) <https://scroll.in/article/959806/covid-19-how-fake-news-and-modi-government-messaging-fuelled-indias-latest-spiral-of-islamophobia>.

⁶⁴ Jyoti Yadav, *Indians are fighting against coronavirus and BJP IT cell is fighting against Indians*, The Print (4 April, 2020), <https://theprint.in/opinion/pov/indians-are-fighting-against-coronavirus-and-bjp-it-cell-is-fighting-against-indians/395058/>

⁶⁵ Shawn Sebastien, *After COVID-19 outbreak at Tablighi Jamaat conference, fake news targeting Muslims abounds*, The Caravan, 4 April, 2020) <https://caravanmagazine.in/media/after-covid-19-outbreak-at-tablighi-jamaat-conference-fake-news-targeting-muslims-abounds>

⁶⁶ *Do not buy from Muslims': BJP leader in India calls for boycott*, Al Jazeera (25 Apr, 2020) <https://www.aljazeera.com/news/2020/4/29/do-not-buy-from-muslims-bjp-leader-in-india-calls-for-boycott>

⁶⁷ *64 Foreign Tablighi Jamaat Members Arrested in Bhopal amid Covid-19 Pandemic*, News 18 (16 May, 2020) <https://www.news18.com/news/india/64-foreign-tablighi-jamaat-members-arrested-in-bhopal-amid-covid-19-pandemic-2622915.html>

⁶⁸ Bharti Jain, *2,300 foreign Tablighi Jamaat members who took part in Delhi religious event barred from entering India for 10 years*, Times of India (5 Jun, 2020) <https://timesofindia.indiatimes.com/india/2300-foreign-tablighi-jamaat-members-who-took-part-in-delhi-religious-event-barred-from-entering-india-for-10-years/articleshow/76205224.cms>

⁶⁹ Ritika Jain, *supra* note 63.

database that documents reported incidents of hate crimes against religious minorities in India, in the year 2020 on an average, one hate crime against a Muslim has taken place every 2 days. These include 45 incidents of physical assault, 21 instances of attack on religious infrastructure/places of worship as well as other kinds of violence such as vandalism, harassment, and enforced social boycott.

5. Good practice in identifying and tackling anti-Muslim hatred, undertaken by civil society and international organisations:

During the Delhi Pogrom 2020, concerned citizens and civil society organizations set up helplines and carried out medical and legal aid services for the survivors of the violence. Individuals from the affected areas also set up ways to disburse relief supplies.

After the attack on students at JMI and AMU, therapists across Delhi came together to offer pro-bono services to students for psychosocial support. This help was also extended to Anti-CAA, NRC protesters.

In the light of proposed laws on the bogey of 'Love Jihad', concerned citizens and students came forward to challenge the narrative of the current government, and set up two campaigns - India Love Project and Love Azad.⁷⁰

Student bodies across Universities in India, released statements in solidarity with JMI and AMU and held marches to extend solidarity and demand a roll back of the CAA.

Several self-regulatory codes have been enacted by private associations such as the News Broadcasters Association (Ethics and Broadcasting Standards), or statutory bodies like the Press Council of India (Norms for Journalistic Conduct, 2010), which depending on the subject matter (cable content, print media) call for fair and objective reporting, and to see that their reports are not likely to incite or aggravate communal disharmony.⁷¹

⁷⁰ India Love Project documents personal stories of inter caste and inter faith couples. Love Azad, is also a social media campaign led by student groups across several universities on Right to Love, to challenge the ruling governments curbing the right to choose a partner.

⁷¹ But experience has shown that these exist only on paper and the bodies are toothless. Even where they decide to proceed, sanctions are confined to censure or asking the concerned subjects to render an apology. Nowhere is this ineptitude more apparent than in the Tablighi Jamaat case where the media demonized muslims as the primary carriers of the virus - aggravating the communal divide. While the majoritarian government itself did not take any enforcement action, the self-regulatory models failed to pull up the concerned journalists and media houses. See *Tablighi Jamaat row: SC pushes Modi government to frame norms on TV reportage*, The New Indian Express (Nov 18, 2020), <https://www.newindianexpress.com/nation/2020/nov/18/tablighi-jamaat-row-sc-pushes-modi-government-to-frame-norms-on-tv-reportage-2224704.html>